

**Thomas Jefferson to Congress, December 3, 1805,
Address , from The Works of Thomas Jefferson in
Twelve Volumes. Federal Edition. Collected and Edited
by Paul Leicester Ford.**

DRAFT OF FIFTH ANNUAL MESSAGE¹

1 The following are papers relating to this message. The first is endorsed “Dept. of State recd Oct. 25 Message.”

“ Madison's Memorandum.

“(a) And which have been increased by peculiar circumstances in the W. Indn. seas, yet in the more distant channels, at least of our trade.

“(b) The act authorizes &c. provisionally at least—a port &c. without the limits of the U. S. the words in () may be left out.

“(c) (On the part of Spain).

“(d) (Proper to suspend) will accord better with the case—as the 6th. atr. is also made a ground of suspension.

“(e) May reasonably be expected to replace the Spanish govt. in the disposition which originally concurred in the Convention.

“(f) (Manifestations).

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“(g) (On proper) quer. if the last circumstance may not be omitted in so general a paragraph and left to be included in some particular message or taken up on informal suggestion.

“(h) Quer here as above.

“(i) (Effectual) is it not too strong?”

On Nov. 24, Jefferson wrote to Madison:

“How will it do to amend the passage respecting England to read as follows?

““New principles too have been interpolated into the Law of Nations, founded neither in justice, nor the usage or acknowledgement of nations. According to these a belligerent takes to itself a commerce with it's own enemy, which it denies to a neutral on the ground of it's aiding that enemy. But reason revolts at such an inconsistency. And the neutral having equal rights with the belligerent to decide the question, the interests of our constituents & the duty of maintaining the authority of reason, the only umpire between just nations impose on us the obligation of providing an effectual and determined opposition to a doctrine' (so injurious to peaceable nations).

“Will you give me your opinion on the above immediately, as I wish to send the paper to Mr. Gallatin? Should we not lay before Congress the act of parl. proving the British take the trade to themselves, & the order of council proving they deny it to neutrals?”

In Madison's hand, on the same sheet is written:

“Although it is strictly true as here applied that reason is the sole umpire, yet as G. B. abuses the idea, in order to get rid of the instituted L. of nations, and as it may not be amiss to invite the attention of other neutrals, suppose there be added after a doctrine ‘as alarming to all peaceable nations as it is illegal (against all law) in itself,’ or some similar

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expression. This however is merely for consideration. The passage as it stands has a good countenance and is made of good stuff.”

Madison also drew up some notes (indorsed: “Received Nov. 24, 05, Message”) as follows:

“(a) After ‘others’ the insertion of ‘with commissions,’ seems necessary, as others refer to the armed vessels, not to commissns.

“(b) Instead of ‘under the controul’ it may be well to insert some such phrase as ‘unreached by any controul’ in order not to sanction a plea agst. indemnification, drawn from an acknowledgment on our part that the enormities were uncontroullable.

“(c) ‘As unprofitable as immoral.’ Seems to be applicable to both parties. Some such substitute as the following is suggested. ‘As painful on one side as immoral on the other.’

“(d) It is suggested whether naming the ages, particularly that of 18 years may not be too specific, and perhaps incur premature objections. It might be generalized in some such manner as this, ‘Prom the last Census it may be deduced that upwards of 300,000 able-bodied men will be found within the ages answering that character. These will give time for raising regular forces after the necessity of them shall become certain, and the reducing to the early period of life all its active service, cannot but be desirable to our younger citizens of all kinds, inasmuch as it engages to them in more advanced stages an undisturbed repose in the bosom of their families.”’

A second series of notes by Madison (indorsed “received Nov. 27, 05, Message”) was:

“(a) ‘Will become more able to regulate with effect their respective functions in these departments’ instead of what is between the first ()”

At this point, Jefferson interlined this:

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“Will become able to regulate with effect their respective functions in these departments. The burthen of quarantines is felt at home as well as abroad. Their efficacy merits examination. Although the health laws of the states should not at this moment be found to require a particular revisal by Congress, yet commerce claims that their attention be ever awake to them.”

Madison's notes continue:

“(b) Omit what is between the 2d ()

“(a) The first alteration is suggested on the ground that an executive definition of the constitutional power of an Indept Branch of Govt may be liable to criticism.

“(b) The 2d on the ground that it takes, apparently, side with the sect of Infectionists. If ‘really infected’ be struck out after vessels, & ‘in a state dangerous to health’ were substituted or some other neutral phrase, the objection would be taken away.

“The pencilled words have reference to the idea & anxiety of some that the state laws should be revised.”

Yet a third of Madison's notes (indorsed: “Received Nov. 28, 05. Resolns Spain”) reads:

“Resol 1. (Substitute within any part of the former Louisiana comprehend in the delivery of possession thereof to the U. S.)

“2. (Omit)—(substitute as may consist with the honor of the U. States) this change will look less towards advances by the U. S. to *effect* the adjustment.

“4. (Omit, as embarrassing and inefficacious).

“5. (Quer. if not unnecessary and provided for by the succedg resol.)

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"6. (Omit, on the idea that with this specification amicable expense of adjustment will be in fact authorized, with an apparent reference to the use of force previously authorized).

"The difficulty lies in covering an application of money to *a new purchase* of territory. As a means of adjustment it will be covered; but by a construction probably not entering into the views of Congress."

To Gallatin, Jefferson had written:

"November 20, 1805.

"Th. J. to Mr. Gallatin.

"Can you be so good as to let me have the financial paragraph this morning, as there is not much more than time enough to submit the message successively to the different gentlemen for correction and then to have copies?"

"November 24, 1805.

"Th. J. to Mr. Gallatin.

"I send you the message to ask a scrupulous revision, and as early an one as you can, because there does not remain more than time enough to submit it successively to the other gentlemen for their corrections, to make copies, &c. On reviewing what has been prepared as to Great Britain and Spain, I found it too soft towards the former compared with the latter, and that so temperate a notice of the greater enormity might lessen the effect which the strong language towards Spain was meant to produce at the Tuileries. I have, therefore, given more force to the strictures on Britain."

"November 26, 1805.

"Th. J. to Mr. Gallatin.

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"1. The concessions to Renault. As to those in the Territory of Indiana, that country having been claimed by England at all times, conquered in the war of 1755, and confirmed to her in 1763; conquered by the United States, and confirmed to them in 1783; and all ancient titles there settled and done with by authority of the United States; these claims of Renault are certainly at an end.

"2. As to those in Louisiana; I believe it has been a law as well as invariable usage with the Spanish government in that country to consider all concessions void which were not settled within one, two, or three years, which condition was often expressed in the grant, and understood where not expressed. O'Reilly's Ordinance is evidence of this policy and practice. But independently of positive law, prescription is a law of reason: if Renault ever took possession which does not appear, he has abandoned that possession more than sixty or seventy years, as appears by Austin's statement, which is that so long ago as 1738 these mines were considered as public property.

"3. As to the concessions in 1797 to Winter and others, exclusive of the fraud and illegality so obvious on their face, they bore the express condition of becoming void if not settled in a year.

"However, the commissioners of Congress (I believe) are to report titles for the ultimate decision of Congress. Whether it would be proper for us in the mean time to express sentiments which might discourage speculations is to be considered of.

"I have been sensible the passage on the yellow fever appeared bald, for want of a practical application. The real object being to bring important facts before foreign governments, an ostensible one was necessary to cover the reality. I have endeavored at it in the enclosed, as well as some other supplements suggested by you, of which I ask your consideration. Affectionate salutations."

Dec. 3, 1805.

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To the Senate & House of Representatives of the U. S. of America.

At a moment when the nations of Europe are in commotion & arming against each other, when those with whom we have principal intercourse are engaged in the general contest, and when the countenance of some of them towards our peaceable country, threatens that even that may not be unaffected by what is passing on the general theatre, a meeting of the representatives of the nation in both Houses of Congress has become more than usually desirable. Coming from every section of our country, they bring with them the sentiments & the information of the whole, & will be enabled to give a direction to the public affairs which the will & the wisdom of the whole will approve & support.

In taking a view of the state of our country, we, in the first place, notice the late affliction of two of our cities under the fatal fever which in latter times has occasionally visited our shores. Providence in his goodness gave it an early termination on this occasion, & lessened the number of victims which have usually fallen before it. In the course of the several visitations by this disease, it has appeared that it is strictly local, incident to cities & on the tide waters only, incommunicable in the country either by persons under the disease, or by goods carried from diseased places: that it's access is with the autumn, and it disappears with the early frosts. These restrictions, within narrow limits of time & space, give security, even to our maritime cities, during three fourths of the year, & to the country always.

Altho' from these facts it appears unnecessary, yet, to satisfy the fears of foreign nations, & cautions on their part not to be complained of in a danger whose limits are yet unknown to them, I have strictly enjoined on the officers at the head of the customs to certify with exact truth, for every vessel sailing for a foreign port, the state of health respecting this fever which prevailed at the place from which she sailed. Under every motive from character & duty to certify the truth, I have no doubt they have faithfully executed this injunction. Much real injury has however been sustained from a propensity to identify with this endemic, & to call by the same name, fevers of very different kinds which

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have always been known at all times and in almost all countries, & never have been placed among those deemed infectious contagious. As we advance in our knowledge of this disease, as facts develop the source from which individuals receive it, the state authorities charged with the care of the public health & Congress with that of the general commerce, will become able to regulate with effect their respective functions in these departments. The burthen of quarantines is at home as well as abroad. The efficacy merits examination. Altho' the health laws of the states should be found to need no present revisal by Congress yet, commerce claims that their attention be ever awake to them.

Since our last meeting the aspect of our foreign relations has considerably changed. Our coasts have been infested, and our harbors blockaded watched by private armed vessels, some of them without commissions, some with legal commissions, others with those of legal form, but committing piratical acts beyond the authority of their commissions. They have captured in the very entrance of our harbors, as well as on the high seas, not only the vessels of our friends coming to trade with us, but our own also. They have carried them off under pretence of legal adjudication, but not daring to approach a court of justice, they have plundered & sunk them by the way, or in obscure places, where no evidence could arise against them, maltreating the crews, & abandoning them in boats in the open sea, or on desert shores, without food or covering. These enormities not appearing to be

under the unreached by any control of their sovereigns, I found it necessary to equip a force, to cruise within our own seas, to arrest all vessels of these descriptions found hovering on our coasts, within the limits of the Gulf stream, and to bring the offenders in for trial as The rumor of such an armament most of them they disappeared from our coasts, but they still carry on the same predatory practices in the neighboring seas. The subsequent disappearance has relieved the navigation on our coasts.

The same system of hovering on our coasts, & beleaguering our harbors, under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce. New principles too have been interpolated into the

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law of nations founded neither in justice, nor the usage or acknowledgement of nations, which if pursued in practice, prostrate the navigation of the neutral and make him merely subservient to the purposes of a belligerent. According to these, a belligerent takes to itself a commerce with it's own enemy, which it denies to a neutral on the ground of its aiding that enemy to carry on in the war. But reason revolts at such an inconsistency. And the neutral having equal right with the belligerent to decide the question, the interest of our constituents and the duty of maintaining the authority of Reason, the only umpire between just nations, impose on us the obligation of providing an effectual & determined opposition to a doctrine so injurious to peaceable nations, injurious to the rights of peaceable nations. Indeed the confidence we ought to have in the justice of others still countenances the hope we ought still to hope that the respect for justice which all people profess to entertain, that a sounder view of those rights will of itself induce from every belligerent a more correct observance of them.

With Spain our negotiations for the settlement of differences have not had a satisfactory issue. Spoliations during the former war for which she had formally acknowledged herself responsible, have been refused to be compensated, but on conditions affecting other claims in no wise connected with them. Similar aggressions are now renewed & multiplied both in Europe & America. Yet the same practices are renewed in the present war, and are already of great amount. On the Mobile our commerce passing through that river continues to be obstructed by arbitrary duties & vexatious searches. Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. While however the right is unsettled, we have avoided changing the state of things, by taking new coasts, or strengthening ourselves in the disputed territories in the hope that the other power would not, by a contrary conduct, oblige us to meet their example, and endanger conflicts of authority, the issue of which may not be easily entirely controuled. But in this hope too we have been disappointed: now reason to lessen our confidence.

Inroads have been recently made into the territories of Orleans & the Mississippi. Our citizens have been seized and their property plundered in the very parts of the

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former which had been actually delivered up by Spain, the imprisonment of our citizens & plundering their property, and all this by the regular officers & souldiers of that government. I have obliged me therefore found it necessary at length to give orders to our troops on that frontier to be in readiness to give aid for the protection protect our citizens, and to repel by arms any similar aggressions in future. Other particulars details necessary for your information of the state of things between this country & that, shall be the subject of another communication.

In reviewing these injuries from some of the belligerent powers, the moderation, the firmness & the wisdom of the legislature will all be called into action. We ought still to hope that time & a more correct estimate, of interests as well as of character, will produce the justice we are bound to expect. But should any nation deceive itself by false calculations and disappoint that expectation, we must join in the unprofitable contest, as unprofitable as it is immoral, of trying which party can do the other the most harm. Some of these injuries may perhaps admit a peaceable remedy. Where that is competent it is always the most desirable. We may suspend intercourse with nations which harass it by stem. We may tax the commerce of the wrong doors to relieve the individuals wronged. We may pass a navigation act, adapted to our position & circumstances, only avoiding to confound the just with the unjust. But some of them are of a nature to be met by force only, & all of them may lead to it. I cannot therefore but recommend such preparations as circumstances call for. The first object is to place our seaport towns out of the danger of insult. I have already given orders Measures have been already taken for furnishing them with a sufficient number of heavy cannon on travelling carriages, for the service of such land batteries as may prevent armed vessels from approaching or injuring them make a part of their defence against armed vessels approaching them. In aid of these will be requisite it is desirable we should have a competent number of gunboats: & the number, to be competent, must be considerable.

Experience has proved their utility no longer doubtful: and If immediately begun, they may be in readiness for service at the opening of the next season. Whether it will be

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necessary to augment our land forces, will probably be decided by occurrences probably in the course of your session. In the meantime you will consider whether it would not be expedient, for a state of peace as well as of war, so to organize or class or marshall the militia, as would enable us on any sudden emergency, to call for the services of the younger portions, unencumbered with the old and those burthened with having families. Upwards of three hundred thousand able bodied men, between the ages of eighteen & twenty-six years, which the last Census shews we may now count within our limits, will furnish a competent number for offence or defence, in any point where they may be wanted, and will give time for raising regular forces, after the necessity of them shall become certain, and the reducing to the early period of life all its active service, cannot but be desirable to our younger citizens of all times of the present an to come as well as future times, inasmuch as it engages to them in more advanced life age a quiet and undisturbed repose in the bosom of their families. I cannot then but earnestly exhort you recommend to take under your earliest early consideration the expediency of so modifying our militia system as, by a separation of the more active from the inactive part from that which is less so, we may draw from it, when necessary, an efficient corps, fit for real and active service, & to be called to it in regular rotation.

Considerable provision has been made under former authorities from Congress, of materials for the construction of ships of war of 74 guns. These materials are on hand, subject to the further will of the legislature.

An immediate prohibition of the exportation of arms & ammunition is also submitted to your determination.

Turning from these unpleasant views of violence and wrong I congratulate you on the liberation of our fellow citizens who were stranded on the coast of Tripoli & made prisoners of war. In a government bottomed on the will of all, the life & liberty of every individual citizen becomes interesting to all. In the treaty therefore which has concluded our warfare with that state an article for the ransom of our citizens has been agreed to.

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An operation by land, in conjunction with the ex-basha of An operation by land, by a small band of our countrymen & others engaged for the occasion in conjunction with the troops of the ex-basha of that country, gallantly conducted by our late consul Eaton and their successful enterprise on the important city of Derne, contributed doubtless to the impression which produced peace: and the conclusion of this prevented opportunities of which the officers and men of our squadron destined for Tripoli would have availed themselves, to emulate the acts of valour exhibited by their brethren in the attack of the last year. Reflecting with high satisfaction on the distinguished bravery displayed whenever occasions permitted in the late Mediterranean service, I think it would be an useful encouragement to make an opening for some present promotion, by enlarging our peace establishment of captains and lieutenants to the number of frigates which were retained for service by the act of 1801.

With Tunis some misunderstandings have arisen not yet sufficiently explained understood here. But friendly explanations discussions with their ambassador, recently arrived, and a mutual disposition to do whatever is just & reasonable, cannot fail of dissipating these. So that we may consider our peace on that coast, generally, to be on as sound a footing as it has been at any preceding time. Still it will not be expedient to withdraw immediately the whole of our force from that sea.

The law providing for a naval peace establishment fixes the number of frigates which shall be kept in constant service in time of peace: and prescribes that they shall be manned by not more than two-thirds of their complement of seamen & ordinary seamen. Whether a frigate may be trusted to two-thirds only of its proper complement of men must depend on the nature of the service on which she is ordered. She may sometimes for her safety so as to insure her object, require her fullest complement. In adverting to this subject Congress will perhaps consider whether the best limits on the executive discretion in this case would not be by the number of seamen which may be employed in the whole service, rather than the number of vessels. Occasions officer arise for the employment of small rather than of

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large vessels: and it would lessen risk as well as expense to be authorized to employ them of preference. The limits suggested by the number of seamen would admit a selection of vessels best adapted to the service.

Our Indian neighbors are advancing, many of them, with spirit, & others beginning to engage, in the pursuits of agriculture & household manufacture. They are becoming sensible that the earth yields subsistence with less labor & more of certainty than the forest: and find it their interest from time to time to dispose of parts of their surplus & waste lands for the means of improving those they occupy, and of subsisting their families while they are preparing their farms. Since your last session the northern tribes have sold to us the lands between the Connecticut reserve & the former Indian boundary, and those on the Ohio, from the same boundary to the Rapids, & for a considerable depth inland. The Chickasaws & Cherokees have sold us their rights north of the Tennessee, from the Ohio, to the Natchez road country between the two districts of and adjacent to the two districts of Tennessee,

and the Creeks the residue of their lands in the fork of Ocmulgee up to the Ulcofauhatche. The three former purchases are important, inasmuch as they consolidate disjoined parts of our settled country, and render their intercourse secure: and the second particularly so, as with the small point on the river which we expect is by this time ceded by the Piankeshaws, it completes our possession of the whole of both banks of the Ohio, from its source to near it's mouth, and the navigation of that river is thereby rendered forever safe in all its parts to our citizens settled & settling on it's extensive waters. The purchase from the Creeks too has been for some time peculiarly interesting to the state of Georgia.

The several treaties which have been mentioned will be submitted to both houses of Congress for the exercise of their respective functions.

Deputations, now on their way to the seat of government, from various nations of Indians inhabiting the Missouri & other parts beyond the Mississippi bring us come charged

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with assurances of their satisfaction with the new relations in which they are placed with us, of their dispositions to cultivate our peace & friendship, & their desire to enter into commercial intercourse with us.

A state of our progress in exploring the principal rivers of that country, & of the information respecting them hitherto received, obtained will be communicated so soon as we shall receive some further particulars relations which we have reason shortly to expect.

The receipts at the Treasury during the year ending on the 30th day of Sep. last have exceeded the sum of thirteen millions of Dollars, which, with not quite five millions in the Treasury at the beginning of the year, have enabled us after meeting other demands, to pay nearly two millions of the debt contracted

under the British treaty and convention, upwards of four millions of principal of the public debt, & four millions of Interest. These payments, with those which had been made in three years and an half preceding, have extinguished of the funded debt nearly eighteen millions of principal.

Congress, by their act of Nov. to, 1803, authorized us to borrow 1,750,000 Dollars towards meeting the claims of our citizens assumed by the convention, with France. We have not however made use of this authority: because the sum of four millions and an half, which remained in the Treasury on the same 30th day of Sep. last, with the receipts which we may calculate on for the ensuing year, besides paying the annual sum of eight millions of Dollars, appropriated to redeem the funded debt as fast as the original contracts permit, & meeting all the current demands which may be expected, will enable us to pay the whole sum of three millions seven hundred & fifty thousand Dollars assumed by the French convention & still leave us a surplus of nearly a million of dollars at our free disposal. Should you concur in the provisions of arms & armed vessels recommended by the circumstances of the times, this surplus will furnish the means of doing so.¹

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1 In margin and marked in pencil "not to be copied": "Forty thousand stand of arms four hundred thousand; one hundred gunboats three hundred thousand; towards building a seventy four to supply the Philada. & Greene three hundred thousand."

The duties composing the Mediterranean fund will cease, by the law which established them, three months after the ratification of a treaty of peace with the regency of Tripoli. The surplus already yielded by our permanent revenue renders unnecessary this addition to it. It might perhaps be thought improvident to discontinue taxes at a moment when we may want these & more for the purposes of war. But if we never discontinue taxes while there is a cloud of war visible in our horizon, all taxes will become perpetual. If war is to come upon us, we must meet it with system, into which this fragment of duty could enter for little or nothing. Whenever war supervenes, it will be the war of our constituents, which, forced on them by the injustice of other nations, we need not fear they will be wanting to their own interests & safety.

Considering however that the Mediterranean fund is levied on luxuries used chiefly by the rich, and that we have an impost on salt which falls more heavily on the poor, & especially on the farmer, I recommend to your consideration whether it would not be better to commute these duties, not materially different in amount by consolidating the Mediterranean with the general fund & suppressing instead of that the duty on salt.

On this first occasion of addressing Congress, since by the choice of my constituents, I have entered on a second term of administration, I embrace the opportunity to give this public assurance that I will exert my best endeavours to administer faithfully the executive department, & will zealously cooperate with you in every measure which may tend to secure the liberty, property & personal safety of our fellow-citizens, & to consolidate the republican forms & principles of our government.

In the course of your session you shall receive all the aid which I can give for the despatch of the public business, and all the information necessary for your deliberations, of which

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the interests of our own country & the confidence reposed in us by others will admit a communication.